IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.78 OF 1997

The Commissioner of Income Tax
Kolhapur .. Applicant.
V/s.
Shri Sidheshwar SSK Ltd. Solapur.. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the parties. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding, in respect of various funds like Chief Minister's fund, Hutment fund, Small Savings, Drought relief fund etc that the assessee acted as an agent and collections were made as per the directions of the State Government. For spending them on the purposes specified by the State Government and that the collections were made by way of retaining amount of cane price payable to the sugarcane growers and hence are not trading receipt liable to tax ?

2. In so far as all other items except cane development fund and area development fund are concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K.**

Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)] in favour of the assessee and against the revenue. So far as cane development fund and area development fund are concerned, the issue will have to be referred back to the Tribunal for consideration afresh as per the judgment of the Apex Court in the case of Siddheshwar S.S.K. Ltd. (supra). As such the said issues stand remanded back to the Tribunal for consideration afresh.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)